

(b) *Access to records under a (j)(2) exemption.* Requests for access to criminal law enforcement records maintained in a system for which a (j)(2) exemption has been established shall be processed as if also made under the FOIA.

§317.132 Specific exemptions.

(a) *Using specific exemptions.* Specific exemptions permit certain categories of records to be exempted from specific provisions of the Privacy Act. Subsections (k)(1-7) of the Privacy Act permits claiming exemptions for seven categories of records. To be eligible for a specific exemption, the record must meet the corresponding criteria.

(1) (k)(1) exemption: Information properly classified under DoD 5200.1-R¹¹ (32 CFR part 159) in the interest of national defense or foreign policy.

(2) (k)(2) exemption: Investigatory information compiled for law enforcement purposes. If maintaining the information causes an individual to be ineligible for or denied any right, benefit, or privilege that he or she would otherwise be eligible for or entitled to under Federal law, then he or she shall be given access to the information, except for the information that would identify a confidential source. The (k)(2) exemption, when established, allows limited protection of investigative records normally maintained in a (j)(2) exempt system for use in personnel and administrative actions.

(3) (k)(3) exemption: Records maintained in connection with providing protective services to the President of the United States and other individuals under 18 U.S.C. 3056.

(4) (k)(4) exemption: Records required by Federal law to be maintained and used solely as statistical records that are not used to make any determination about an identifiable individual, except as provided by 13 U.S.C. 8.

(5) (k)(5) exemption: Investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, military service, Federal contracts, or access to classified information, but only to the extent such material would reveal the

identity of a confidential source. This exemption allows protection of confidential sources in background investigations, employment inquiries, and similar inquiries used in personnel screening to determine suitability, eligibility, or qualifications.

(6) (k)(6) exemption: Testing or examination material used solely to determine individual qualifications for appointment or promotion in the Federal or military service if the disclosure would compromise the objectivity or fairness of the testing or examination process.

(7) (k)(7) exemption: Evaluation material used to determine potential for promotion in the military services, but only to the extent that disclosure would reveal the identity of a confidential source.

(b) *Confidential source.* (1) A “confidential source” is defined under the Privacy Act as a person or organization that has furnished information to the Federal Government under an express promise or, before September 27, 1975, under an implied promise that the identity of the person or organization would be held in confidence.

(2) Promises of confidentiality are to be given on a limited basis and only when essential to obtain the information sought. Appropriate procedures should be established for granting confidentiality and designate those categories of individuals authorized to make such promises.

(c) *Access to records under specific exemptions.* Requests for access to records maintained in systems of records for which specific exemptions have been established shall be processed as if also made under the FOIA.

§317.133 DCAA exempt record systems.

(a) *Exempt systems of records.* The Director, DCAA has made a determination and claims an exemption for the following agency systems of records by publication of an appropriate exemption rule for the record system and therefore allowing the agency to invoke, at its discretion, the particular exemption permitted by the Privacy Act from certain subsections of the Privacy Act.

¹¹ See footnote 3 to §317.1(b).

(b) *Classified material.* The Director, DCAA has made a determination that all systems of records maintained by the agency shall be exempt from 5 U.S.C. 552a(d) of the Privacy Act pursuant to 5 U.S.C. 552a(k)(1) to the extent that the record system contains any information properly classified under Executive Order 12958 and required by the executive order to be withheld in the interest of national defense or foreign policy. This blanket exemption, which may be applicable to parts of all systems of records, is necessary because certain record systems not otherwise specifically designated for exemptions herein may contain items of information that have been properly classified.

(c) *General exemption rules.* [Reserved]

(d) *Specific exemption rules.* [Reserved]

[57 FR 48992, Oct. 29, 1992, as amended at 61 FR 2916, Jan. 30, 1996]

APPENDIX A TO PART 317—DCAA BLANKET ROUTINE USES

A. LAW ENFORCEMENT ROUTINE USE

In the event that a system of records maintained by this agency to carry out its functions indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or by regulation, rule, or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, State, local, or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation, or order issued pursuant thereto.

B. DISCLOSURE WHEN REQUESTING INFORMATION ROUTINE USE

A record from a system of records maintained by this agency may be disclosed as a routine use to a Federal, State, or local agency maintaining civil, criminal, or other relevant enforcement information, or other pertinent information, such as current licenses, if necessary to obtain information relevant to a agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit.

C. DISCLOSURE OF REQUESTED INFORMATION ROUTINE USE

A record from a system of records maintained by this agency may be disclosed to a

Federal Agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

D. CONGRESSIONAL INQUIRIES ROUTINE USE

Disclosure from a system of records maintained by this agency may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

E. PRIVATE RELIEF LEGISLATION ROUTINE USE

Relevant information contained in all systems of records of the agency published on or before August 22, 1975, may be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular A-19 at any stage of the legislative coordination and clearance process as set forth in that circular.

F. DISCLOSURES REQUIRED BY INTER- NATIONAL AGREEMENTS ROUTINE USE

A record from a system of records maintained by this agency may be disclosed to foreign law enforcement, security, investigatory, or administrative authorities in order to comply with requirements imposed by, or to claim rights conferred in, international agreements and arrangements, including those regulating the stationing and status in foreign countries of Department of Defense military and civilian personnel.

G. DISCLOSURE TO STATE AND LOCAL TAXING AUTHORITIES ROUTINE USE

Any information normally contained in IRS Form W-2 that is maintained in a record from a system of records maintained by this agency may be disclosed to State and local taxing authorities with which the Secretary of the Treasury has entered into agreements pursuant to Title 5 U.S.C. Sections 5516, 5517, 5520, and only to those State and local taxing authorities for which an employee or military member is or was subject to tax, regardless of whether tax is or was withheld. This routine use is in accordance with Treasury Fiscal Requirements Manual Bulletin No. 76-07.

H. DISCLOSURE TO THE OFFICE OF PERSONNEL MANAGEMENT ROUTINE USE

A record from a system of records subject to the Privacy Act and maintained by this

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agency may be disclosed to the Office of Personnel Management concerning information on pay and leave, benefits, retirement reductions, and any other information necessary for the Office of Personnel Management to carry out its legally authorized Government-wide personnel management functions and studies.

I. DISCLOSURE TO THE DEPARTMENT OF JUSTICE FOR LITIGATION ROUTINE USE

A record from a system of records maintained by this agency may be disclosed as a routine use to any component of the Department of Justice for the purpose of representing the agency, or any officer, employee or member of the agency in pending or potential litigation to which the record is pertinent.

J. DISCLOSURE TO MILITARY BANKING FACILITIES OVERSEAS ROUTINE USE

Information as to current military addresses and assignments may be provided to military banking facilities that provide banking services overseas and that are reimbursed by the Government for certain checking and loan losses. For personnel separated, discharged, or retired from the Armed Forces, information as to last known residential or home of record address to the military banking facility upon certification by a banking facility officer that the facility has a returned or dishonored check negotiated by the individual or the individual has defaulted on a loan and that if restitution is not made by the individual, the U.S. Government will be liable for the losses the facility may incur.

K. DISCLOSURE OF INFORMATION TO THE GENERAL SERVICES ADMINISTRATION ROUTINE USE

A record from a system of records maintained by this agency may be disclosed as a routine use to the General Services Administration for the purpose of records management inspections conducted under authority of 44 U.S.C. Sections 2904 and 2906.

L. DISCLOSURE OF INFORMATION TO THE NATIONAL ARCHIVES AND RECORDS ADMINISTRATION ROUTINE USE

A record from a system of records maintained by this agency may be disclosed as a routine use to the National Archives and Records Administration for the purpose of records management inspections conducted under authority of 44 U.S.C. Sections 2904 and 2906.

M. DISCLOSURE TO THE MERIT SYSTEMS PROTECTION BOARD ROUTINE USE

A record from a system of records maintained by this agency may be disclosed as a routine use to the Merit Systems Protection

Board, including the Office of the Special Counsel, for the purpose of litigation, including administrative proceedings, appeals, special studies of the civil service and other merit systems, review of OPM or agency rules and regulations, investigation of alleged or possible prohibited personnel practices, including administrative proceedings involving any individual subject of a DoD investigation, and such other functions promulgated in 5 U.S.C. Section 1205 or as may be authorized by law.

N. COUNTERINTELLIGENCE PURPOSES ROUTINE USE

A record from a system of records maintained by this agency may be disclosed as a routine use outside the Department of Defense for the purpose of counterintelligence activities authorized by U.S. law or executive order or for the purpose of enforcing laws that protect the national security of the United States.

APPENDIX B TO PART 317—PROVISIONS OF THE PRIVACY ACT FROM WHICH A GENERAL OR SPECIFIC EXEMPTION MAY BE CLAIMED

Exemption		Section of the Privacy Act
(j)(2)	(k)(1-7)	
No	No	(b)(1) Disclosure within the Department of Defense
No	No	(b)(2) Disclosure to the public
No	No	(b)(3) Disclosure for a routine use
No	No	(b)(4) Disclosure to Bureau of Census
No	No	(b)(5) Disclosure for statistical research and reporting
No	No	(b)(6) Disclosure to National Archives
No	No	(b)(7) Disclosure for law enforcement purposes
No	No	(b)(8) Disclosure under emergency circumstances
No	No	(b)(9) Disclosure to Congress
No	No	(b)(10) Disclosure to General Accounting Office
No	No	(b)(11) Disclosure pursuant to court orders
No	No	(b)(12) Disclosure to consumer reporting agency
No	No	(c)(1) Making disclosure accountings
No	No	(c)(2) Retaining disclosure accountings
Yes	Yes	(c)(3) Making disclosure accounting available to the individual
Yes	No	(c)(4) Informing prior recipients of corrections
Yes	Yes	(d)(1) Individual access to records
Yes	Yes	(d)(2) Amending records
Yes	Yes	(d)(3) Review of the Component's refusal to amend a record
Yes	Yes	(d)(4) Disclosure of disputed information
Yes	Yes	(d)(5) Access to information compiled in anticipation of civil action
Yes	Yes	(e)(1) Restrictions on collecting information

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Exemption		Section of the Privacy Act
(j)(2)	(k)(1-7)	
Yes	No	(e)(2) Collecting directly from the individual
Yes	No	(e)(3) Informing individuals from whom information is requested
No	No	(e)(4)(A) Describing the name and location of the system
No	No	(e)(4)(B) Describe categories of individuals
No	No	(e)(4)(C) Describing categories of records
No	No	(e)(4)(D) Describing routine uses
No	No	(e)(4)(E) Describing records management policies and practices
No	No	(e)(4)(F) Identifying responsible officials
Yes	Yes	(e)(4)(G) Procedures for determining if a system contains a record on an individual
Yes	Yes	(e)(4)(H) Procedures for gaining access
Yes	Yes	(e)(4)(I) Describing categories of information sources
Yes	No	(e)(5) Standards of accuracy
No	No	(e)(6) Validating records before disclosure
No	No	(e)(7) Records of First Amendment activities
Yes	No	(e)(8) Notification of disclosures under compulsory legal process
No	No	(e)(9) Rules of conduct
No	No	(e)(10) Administrative, technical and physical safeguards
No	No	(e)(11) Notice of new and revised routine uses
Yes	Yes	(f)(1) Rules for determining if an individual is subject of a record
Yes	Yes	(f)(2) Rules for handling access requests
Yes	Yes	(f)(3) Rules for granting access
Yes	Yes	(f)(4) Rules for amending records
Yes	Yes	(f)(5) Rules regarding fees
Yes	No	(g)(1) Basis for civil action
Yes	No	(g)(2) Basis for judicial review and remedies for refusal to amend
Yes	No	(g)(3) Basis for judicial review and remedies for denial of access
Yes	No	(g)(4) Basis for judicial review and remedies for other failure to comply
Yes	No	(g)(5) Jurisdiction and time limits
Yes	No	(h) Rights legal guardians
No	No	(i)(1) Criminal penalties for unauthorized disclosure
No	No	(i)(2) Criminal penalties for failure to publish
No	No	(i)(3) Criminal penalties for obtaining records under false pretenses
Yes	No	(j) Rulemaking requirement
N/A	No	(j)(1) Federal exemption for the Central Intelligence Agency
N/A	No	(j)(2) General exemption for criminal law enforcement records
Yes	N/A	(k)(1) Exemption for classified material
N/A	N/A	(k)(2) Exemption for law enforcement material
Yes	Yes	(k)(3) Exemption for records pertaining to Presidential protection
Yes	N/A	(k)(4) Exemption for statistical record

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Exemption		Section of the Privacy Act
(j)(2)	(k)(1-7)	
Yes	N/A	(k)(5) Exemption for investigatory material compiled for determining suitability for employment or service
Yes	N/A	(k)(6) Exemption for testing or examination material
Yes	N/A	(k)(7) Exemption for promotion evaluation materials used by the Armed Forces
Yes	No	(l)(1) Records stored in NARA records centers
Yes	No	(l)(2) Records archived before September 27, 1975
Yes	No	(l)(3) Records archived on or after September 27, 1975
Yes	No	(m) Applicability to government contractors
Yes	No	(n) Mailing lists
Yes	No	(o) Reports on new systems
Yes	No	(p) Biennial report (Note: Department of Defense requires an annual report)

[57 FR 48992, Oct. 29, 1992, as amended at 62 FR 26390, May 14, 1997]

APPENDIX C TO PART 317—LITIGATION STATUS REPORT

- (a) Case Name and number:
- (b) Plaintiff(s):
- (c) Defendant(s):
- (d) Basis for Court Action:
- (e) Initial Litigation:
 - (1) Date Complaint or Charges Filed:
 - (2) Court:
 - (3) Court Action:
 - (6) Appeal (if any):
 - (1) Date Appeal Filed:
 - (2) Court:
 - (3) Case Number:
 - (4) Court Ruling:
 - (g) Remarks:

PART 318—DEFENSE THREAT REDUCTION AGENCY (DTRA)

- Sec.
- 318.1 Purpose and scope.
- 318.2 Applicability.
- 318.3 Designations and responsibilities.
- 318.4 Procedures for requests pertaining to individual records in a record system.
- 318.5 Disclosure of requested information to individuals.
- 318.6 Request for correction or amendment to a record.
- 318.7 Agency review of request for correction or amendment of record.